

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**IN RE: BANK OF AMERICA
WAGE AND HOUR EMPLOYMENT
LITIGATION**

No. 10-MD-2138-JWL

This Order Relates to the All Cases

SCHEDULING ORDER NO. 1

On May 14, 2010, the initial scheduling conference in this MDL proceeding was held in accordance with the court's Practice and Procedure Order Upon Transfer Pursuant to 28 U.S.C. § 1407(a) of April 23, 2010 (Practice and Procedure Order No. 1). Pursuant to Practice and Procedure Order No. 1, the parties had previously submitted to the court their proposals for pretrial scheduling. The court, having considered those proposals and discussed those proposals with the parties at the conference, hereby **ORDERS** that the following deadlines that shall apply in this MDL proceeding:

No later than **May 28, 2010**, co-lead counsel for plaintiffs shall submit to the court (and to opposing counsel unless an in camera submission is appropriate) via e-mail a status report concerning the two potentially related state court cases pending in California state court.

Plaintiffs shall file their consolidated class action/collective action complaint(s) no later than **June 4, 2010**. Defendant's answer or other responsive pleading shall be filed within **30 days** of the filing of the consolidated complaint(s). Within **14 days** after the filing

of defendant's answer or other responsive pleading, the parties shall meet and confer to establish deadlines for discovery on and motion practice concerning class and collective action certification.

No later than **7 days** after this "meet and confer" scheduling conference, the parties shall submit to the court concerning both the issue of the availability and accessibility of class contact information and the issue of the tolling of the limitations period, one of the following: (1) notification that the parties have resolved the issue themselves; (2) an agreed upon schedule for the court to resolve the issue; or (3) the parties' respective proposals for the manner in which the court should resolve the issue.

The court, as explained in full on the record at the scheduling conference today, hereby **denies without prejudice** the motions for conditional certification in the *Brawner* case (Case No. 09-2073, doc. 115) and *Franco* case (Case No. 10-2218, doc. 37) and the motion to compel discovery of electronic documents in the *Brawner* case (Case No. 09-2073, doc. 124). Defendant's Rule 72(a) motion to review the magistrate judge's order compelling defendant to provide a better response to Interrogatory No. 18 pending in the *Franco* case (Case. No. 10-2218, doc. 86) is stayed and the court further preserves the stay of the magistrate judge's order in that case (doc. 83).

IT IS SO ORDERED this 14th day of May, 2010.

s/ John W. Lungstrum

John W. Lungstrum

United States District Judge